



India delays due date for filing country-by-country reports by Indian constituent entities of foreign MNEs

Global Transfer Pricing Alert 2018-008

India has deferred the due date for filing the country-by-country (CbC) report in India by Indian constituent entities of foreign-headquartered multinational entity (MNE) groups from March 31, 2018, to a future yet-to-be determined date.

The Indian CbC regulations prescribe secondary filing of the CbC report in India by an Indian constituent entity of a foreign MNE group under certain specified circumstances. These specified circumstances are provided in Section 286(4) of the Income Tax Act, 1961, as follows:

- When there is no obligation to file the CbC report in the parent entity's jurisdiction;
- When the parent entity is resident of a country or territory with which India does not have an agreement for the exchange of CbC reports; or
- When there has been a systemic failure in the country or territory in which the parent entity is resident, and the failure has been notified to the constituent entity.

Thus, a foreign MNE group's CbC report is required to be filed in India by the Indian constituent entity if any of the above conditions are satisfied.

The Finance Act, 2018 has now specified that the due date for filing the CbC report in India by an Indian constituent entity of a foreign MNE group under certain specified circumstances will be "within the period as may be prescribed." This amendment

was confirmed by a clarification provided by the Indian government in a March 23 [press release](#), which states that the due date of March 31, 2018, would not be applicable to the filing of the CbC report in India by an Indian constituent entity of a foreign MNE group, and that the new due date will be prescribed.

Accordingly, the secondary filing in India of the CbC report applicable to Indian constituent entities of a foreign MNE group under the specified circumstances is not triggered until the relevant due date is prescribed in the Indian Tax Rules.

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